

September 11, 2008

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of September at 8:00 P.M., and there were

PRESENT: MARK AQUINO, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF FRANK TODARO

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of of Frank J. Todaro, as contract vendee, 22 Hillside Parkway, Lancaster, New York 14086 for one [1] variance for the purpose of operating an auto repair/auto body shop in an existing building which is owned by Sandra J. Bauerschmidt and is located at 5035 Transit Road, Depew, New York 14043 (Town of Lancaster), to wit:

A variance from the requirements of Chapter 50, Zoning, Section 20.C(1) of the Code of the Town of Lancaster. The area of the existing lot is .65 acres.

Chapter 50, Zoning, Section 20.C(1) of the Code of the Town of Lancaster requires a minimum 1.0 acre lot. The petitioner, therefore, requires a .35 acre area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of this public hearing.

Copy of a letter notifying the New York State Department of Transportation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Peter Sorgi, project attorney	Proponent
Jeliasko Jekov	Questions

IN THE MATTER OF THE PETITION OF FRANK TODARO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Frank Todaro and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the contract vendee.

WHEREAS, the property for which the applicant is petitioning is within a General Business (GB) District, as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the property is currently under consideration to amend the zoning from General Business (GB) to Commercial Motor Service (CMS).

WHEREAS, the Erie County Department of Environment and Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern"

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; there are numerous Commercial Motor Service uses within a one half mile radius of the subject property.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created, the subject parcel is not sufficient in size to meet the needs of the applicant.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- that the variance granted is contingent upon this property being rezoned to Commercial Motor Service (CMS) within the next two [2] years.
- that all damaged vehicles awaiting repair shall be stored behind a 6',0" high board on board fence as proposed and set forth on a plan entitled "Proposed Automotive Service Shop for Frank Todaro, Transit Road, Lancaster, New York, as prepared by Dean Sutton Architects, LLP, undated and attached to the application of the petitioner."
- that damaged auto parts be removed from the premises within thirty [30] days from the date in which they are generated.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 11, 2008

PETITION OF BENDERSON DEVELOPMENT COMPANY LLC:

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Benderson Development Company, LLC, 570 Delaware Avenue, Buffalo, New York 14202 for two [2] variances for the purpose of erecting two [2] pole signs on premises owned by the petitioner at 4925 Transit Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster. The petitioner proposes the erection of two [2] pole signs at the premises.

Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one [1] pole sign for each individual building. The petitioner, therefore, requests a variance to permit one [1] additional pole sign.

- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of each proposed pole sign is 80.985 square feet or an aggregate of 161.97 square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum face area of pole signs on the premises to 32 square feet. The petitioner, therefore, requests a 129.97 square foot area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of this public hearing.

Copy of a letter notifying the New York State Department of Transportation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Peter Sorgi, project attorney	Proponent
Lee Chowaniec	Opponent

IN THE MATTER OF THE PETITION OF BENDERSON DEVELOPMENT CO. LLC
TO ALLOW TWO POLE SIGNS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Benderson Development Company LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That photos submitted by Mr. Thill indicate there are no pole signs at or near the intersection of Transit Road and William Street or on Losson Road.

That the petitioner submitted no documentation to substantiate, through a traffic study, his claim that traffic would be better directed to the William Street entrance.

That undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
CONSIDERED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED NO
MR. PERRY	VOTED NO
MR. PIGNATARO	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

September 11, 2008

IN THE MATTER OF THE PETITION OF BENDERSON DEVELOPMENT CO. LLC
TO ALLOW A SIGN FACE AREA OF 80.985 SQUARE FEET

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. AQUINO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Benderson Development Company LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought and thus would be denied the full economic development of his premises.

That the requested area variance relief is not substantial in that the petitioner is lacking 1.7 feet of frontage to qualify for a sixty four square foot sign.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is not self created but is part of the development of a retail business.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That the character of the neighborhood on the east side of Transit Road, the Lancaster side, which is covered under Chapter 50 of the Code of the Town of Lancaster is that of General Business (GB) with pole signs with face areas ranging from 51 square feet to 220 square feet with variances being granted for face area to the following businesses: Realty One, Flix Theaters, Jiffy Lube, Valu Home Centers.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

September 11, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:54 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: September 11, 2008